

which the discipline has previously been imposed. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Consideration Factors. – Before imposing and assessing a civil penalty, the Board shall consider the following factors:

- (1) The nature, gravity, and persistence of the particular violation.
- (2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.
- (3) Whether the violation was willful and malicious.
- (4) Any other factors that would tend to mitigate or aggravate the violations found to exist.

(c) Schedule of Civil Penalties. – The Board shall establish a schedule of civil penalties for violations of this Article and rules adopted by the Board.

~~(d) Costs. – The Board may assess the costs of disciplinary actions against a person found to be in violation of this Article or rules adopted by the Board.~~ Transcriptions Costs. – The Board may assess the costs of transcriptions of a disciplinary hearing held by the Board or the Office of Administrative Hearings to include the recording of the hearing by a court reporter and transcription of the proceeding against a person found to be in violation of this Article or rules adopted by the Board."

SECTION 20. Part 2 of Article 4 of Chapter 114 of the General Statutes is amended by adding the following new section to read:

"§ 114-19.11B. Criminal record checks of applicants for licensure as massage and bodywork therapists.

The Department of Justice may provide to the North Carolina Board of Massage and Bodywork Therapy from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure pursuant to Article 36 of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Justice the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

SECTION 21. Section 18 of this act becomes effective December 1, 2008, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions. The remainder of this act is effective when it becomes law and applies to the actions of therapists and schools on or after that date, to massage and bodywork therapist applications for licensure, and to massage and bodywork therapy school applications for Board approval submitted to the Board on or after that date.

In the General Assembly read three times and ratified this the 15th day of July, 2008.